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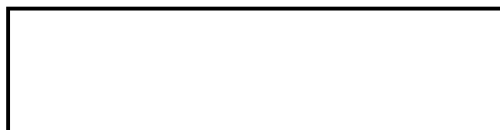
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MEMORANDUM FOR: Office of Legislative Counsel

ATTENTION

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FROM



Assistant General Counsel

SUBJECT : Comments Regarding S.1265, S.1267, H.R.11169,
H.R.11170, and H.R.11171

1. I generally agree with the comments of the Records Administration Branch which you will be receiving from the DDA, thus satisfying its bow to "the legal specialists." However, I would add the following comments (a copy of the RAB comments is attached for your reference).

2. S.1265. There is a latent ambiguity in 44 U.S.C. 2103 and 2104 which we could try to clear up as part of these amendments. Section 2103 allows the Archivist to, in essence, take records from government agencies after 50 (to be amended to 30) years, subject only to the exception for records necessary to the conduct of regular business. Section 2104 allows restrictions to be imposed for 50 (to be 30) years on records which have been transferred to the Archivist, and allows for extensions where necessary. It is not clear, despite the reference in 2104 to "records being considered for transfer from [the Agency's] custody to the Administrator...", that these restrictions may also be applied, presumably under the same standards of review by the Administrator, to records which are over 50 (30) years old at the time the Archivist "takes" them under 2103. This could be clarified easily by adding a new sentence, or a reference to 2104, to the end of 2103(2), or by specifically referencing 2103 in 2104.

3. S.1267. The resubmission of the Agency's records schedules would be the most appropriate way of satisfying the requirements of the amended 44 U.S.C. 3303a. Since all agencies would be in the same position, it is likely this would be a routine procedure. It may even be that the Administrator or Archivist would issue a blanket instruction rather than being inundated with schedules for reapproval. Even if a separate statement of need is required, this should not be a major problem presuming we are in a position to justify our longer retention requirements.

MORI/CDF

4. The proviso in the Federal Property and Administrative Services Act, as amended, which includes the Federal Records Act, to the effect that nothing therein "shall impair or affect any authority of ...[the] Central Intelligence Agency" does not exempt CIA from the requirements of the Federal Records Act totally, but only to the limited extent its provisions may conflict with CIA's basic authorities and functions. Thus, the Agency is bound by these provisions to the extent compatible with the Director's statutory responsibility to protect intelligence sources and methods from unauthorized disclosure and the exemption for the names, functions, etc., of Agency employees. These amendments would not conflict directly with those responsibilities.



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cc: C/RAB